

**Audit Results From  
CAFR and Single Audit Procedures**

**Department of Human Services**

**For the Year Ended  
June 30, 2003**

**STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY**

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**Department of Human Services  
For the Year Ended June 30, 2003**

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**Department of Human Services  
For the Year Ended June 30, 2003**

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**EXECUTIVE SUMMARY**

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**Findings**

- FINDING 1    The department did not obtain required agreements with business associates prior to disclosing protected health information. Fourteen of 224 Business Associate Agreements (6%) were not obtained by the department prior to disclosing protected health information to service providers.
- FINDING 2    The department did not reconcile the Schedule of Expenditures of Federal Awards or the related federal reports to the state's grant's accounting records at the time of the audit. Also, the department has not complied with Policy 20, *Recording of Federal Grant Expenditures and Revenues*, issued by the Department of Finance and Administration. This was a finding in the prior audit.
- FINDING 3    The Department of Human Services again failed to comply with Subrecipient Monitoring requirements contrary to instructions from the Department of Finance and Administration. Some subrecipients in the Division of Rehabilitation Services were not being properly monitored. This was a finding in the prior audit.
- FINDING 4    The Department of Human Services did not reduce Temporary Assistance for Needy Families for participants who failed to cooperate with child support requirements. Federal regulations require the state to reduce benefits not less than 25%. Twelve of 28 cases tested (43%) did not have benefits reduced appropriately. This was a finding in the prior two audits.
- FINDING 5    The department has not completed its reconciliation of undistributed child support collections. At June 30, 2003, the balance of undistributed collections in the Tennessee Child Support Enforcement System was \$13,690,301; the balance in the State of Tennessee Accounting and Reporting System was \$26,068,404; and the balance on the federal quarterly report was \$14,278,567. This was a finding in the prior three audits.
- FINDING 6    Child Support Enforcement program contract terms have not always been followed, resulting in an overpayment exceeding \$421,000 to the contractor. The contractor calculated its fee using an estimate of collections instead of using actual collections as required by the agreement. Also, the department did not perform a reconciliation between the amount the contractor was actually paid and the amount the contractor should have been paid.

**FINDING 7** As noted in the prior audit, the department did not always report alleged employee fraud to the Comptroller of the Treasury and did not always calculate the final pay of terminated employees correctly. One employee was not reported and one was not reported for nine months. The four employees who were terminated for fraud were underpaid an average of \$500 on their final pay.

This report addresses reportable conditions in internal control and noncompliance issues found at the Department of Human Services during our annual audit of the state's financial statements and major federal programs. The scope of our audit procedures at the Department of Human Services was limited. During the audit for the year ended June 30, 2003, our work at the Department of Human Services focused on five major federal programs: Food Stamps, State Administrative Matching Grants for Food Stamp Program, Rehabilitation Services-Vocational Rehabilitation Grants to States, Temporary Assistance for Needy Families, and Child Support Enforcement. We audited these federally funded programs to determine whether the department complied with certain federal requirements and whether the department had an adequate system of internal control over the programs to ensure compliance. Management's response is included following each finding.



STATE OF TENNESSEE  
**COMPTROLLER OF THE TREASURY**

State Capitol  
Nashville, Tennessee 37243-0260  
(615) 741-2501

John G. Morgan  
Comptroller

May 18, 2004

The Honorable Phil Bredesen, Governor  
and

Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

and

The Honorable Virginia T. Lodge, Commissioner  
Department of Human Services  
Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37248

Ladies and Gentlemen:

Transmitted herewith are the results of certain limited procedures performed at the Department of Human Services as a part of our audit of the *Comprehensive Annual Financial Report* of the State of Tennessee for the year ended June 30, 2003, and our audit of compliance with the requirements described in the U.S. Office of Management and Budget Circular A-133 Compliance Supplement.

Our review of management's controls and compliance with laws, regulations, and the provisions of contracts and grants resulted in certain findings which are detailed in the Findings and Recommendations section.

Sincerely,

John G. Morgan  
Comptroller of the Treasury

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**STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY  
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December 15, 2003

The Honorable John G. Morgan  
Comptroller of the Treasury  
State Capitol  
Nashville, Tennessee 37243

Dear Mr. Morgan:

We have performed certain audit procedures at the Department of Human Services as part of our audit of the financial statements of the State of Tennessee as of and for the year ended June 30, 2003. Our objective was to obtain reasonable assurance about whether the State of Tennessee's financial statements were free of material misstatement. We emphasize that this has not been a comprehensive audit of the Department of Human Services.

We also have audited certain federal financial assistance programs as part of our audit of the state's compliance with the requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement. The following table identifies the State of Tennessee's major federal programs administered by the Department of Human Services. We performed certain audit procedures on these programs as part of our objective to obtain reasonable assurance about whether the State of Tennessee complied with the types of requirements that are applicable to each of its major federal programs.

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**Major Federal Program Administered by the  
Department of Human Services  
For the Year Ended June 30, 2003  
(in thousands)**

CFDA Number	Program Name	Federal Disbursements
10.551	Food Stamps	\$665,293
10.561	State Administrative Matching Grants for Food Stamp Program	\$29,016
84.126	Rehabilitation Services-Vocational Rehabilitation Grants to States	\$60,812
93.558	Temporary Assistance for Needy Families	\$191,167
93.563	Child Support Enforcement	\$36,943

Source: State of Tennessee's Schedule of Expenditures of Federal Awards for the year ended June 30, 2003.

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We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

We have issued an unqualified opinion, dated December 15, 2003, on the State of Tennessee's financial statements for the year ended June 30, 2003. We will issue, at a later date, the State of Tennessee *Single Audit Report* for the same period. In accordance with *Government Auditing Standards*, we will report on our consideration of the State of Tennessee's internal control over financial reporting and our tests of its compliance with certain laws, regulations, and provisions of contracts and grants in the *Single Audit Report*. That report will also contain our report on the State of Tennessee's compliance with requirements applicable to each major federal program and internal control over compliance in accordance with OMB Circular A-133.

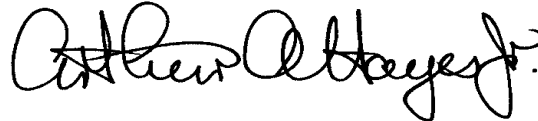
As a result of our procedures, we identified certain internal control and/or compliance issues related to the major federal programs at the Department of Human Services. Those issues, along with management's response, are described immediately following this letter. We have reported other less significant matters involving the department's internal control and instances of noncompliance to the Department of Human Services' management in a separate letter.



The Honorable John G. Morgan  
December 15, 2003  
Page Three

This report is intended solely for the information and use of the General Assembly of the State of Tennessee and management, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record.

Sincerely,

A handwritten signature in black ink, reading "Arthur A. Hayes, Jr." with a stylized, cursive script.

Arthur A. Hayes, Jr., CPA,  
Director

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## **FINDINGS AND RECOMMENDATIONS**

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### **1. The department did not obtain required agreements with business associates prior to disclosing protected health information**

#### **Finding**

The Department of Human Services (DHS) did not obtain 14 of 224 Business Associate Agreements (6%) prior to disclosing protected health information to service providers. These agreements are required by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule regulations. DHS has determined itself to be a covered entity under HIPAA regulations. HIPAA Privacy Rule regulations require “that a covered entity obtain satisfactory assurances from its business associate that the business associate will appropriately safeguard the protected health information it receives or creates on behalf of the covered entity.” However, Business Associate Agreements for contracts with effective dates beginning July 1, 2003, between DHS and its service providers were not obtained for periods between three and seven months after the effective date of the contracts.

A business associate is defined as a “person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity.” Business associate services include legal, actuarial, financial, accounting, consulting, data aggregation, management, administrative, and accreditation services. Business Associate Agreements must be completed when the contract between the department and the service provider is initiated, renewed, or otherwise modified.

Failure to obtain required Business Associate Agreements violates HIPAA regulations, increases the risk that protected health information could be exposed to unauthorized individuals, and exposes the department to potential federal penalties as determined by the Secretary of Health and Human Services.

#### **Recommendation**

The department’s HIPAA Compliance Officer should ensure that required Business Associate Agreements from the department’s service providers are obtained when contracts are initiated, renewed, or otherwise modified. These agreements should be completed prior to disclosure of protected health information from the department to service providers.

#### **Management’s Comment**

We concur. The Department has received, to date thirteen HIPAA Compliant Business Associate Agreements (BAA) from contractors that had either a renewal or an amendment to their contract since April 14, 2003. The Department is currently awaiting one missing BAA, which is required under the HIPAA Privacy Rule, and has not been executed. This Business

Associate will be subject to remedial action. A corrective action plan has been implemented to ensure that all BAAs for the next year will be signed and collected concurrently with the signature of the contract or contract amendment. All BAAs will be issued and returned to the HIPAA Compliance Officer, who will conduct internal audits for the Department.

**2. The department did not reconcile the Schedule of Expenditures of Federal Awards or the related federal reports to the state's grant's accounting records**

**Finding**

Total disbursements shown on the department's Schedule of Expenditures of Federal Awards for State Administrative Matching Grants for Food Stamp Program (State Administration), Temporary Assistance for Needy Families (TANF), Rehabilitation Services-Vocational Rehabilitation Grants to States (Voc Rehabilitation), and Child Support Enforcement (Child Support) for the year ended June 30, 2003, were not reconciled to the related quarterly federal financial status reports or the State of Tennessee Accounting and Reporting System's (STARS) Schedule of Grant Activity (Report 830) at the time of the audit.

The Department of Finance and Administration's (F&A) *Year-End Accounting Procedures Manual* contains instructions for the preparation of the Schedule of Expenditures of Federal Awards (SEFA). Section III, A, states that departments who are required to utilize the STARS 830 Report to prepare their SEFA need to submit the STARS 830 Report to F&A to support the SEFA and **"Any reconciling items are to be clearly documented."** In addition, the Office of Management and Budget Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Subpart C-*Post Award Requirements*, Sec. 20 *Standards for Financial Management Systems*, require that fiscal control and accounting procedures be sufficient to permit the preparation of reports and the tracing of funds to an adequate level to ensure that they have been used properly. The Department of Human Services neither submitted the STARS 830 Report to F&A with its Schedule of Expenditures of Federal Awards nor prepared and submitted reconciliations to document any differences. Also, differences between the federal reports and the SEFA were not submitted. Subsequent to the completion of fieldwork, the department was able to construct for the auditors a reconciliation of the federal reports to the SEFA.

The Department of Finance and Administration issued Policy 20, *Recording of Federal Grant Expenditures and Revenues*, in April 1991. This policy was issued to "establish effective cash management procedures" and "ensure accurate accounting and reporting of financial activity of federal programs." Section 9 states, "Agencies must utilize the STARS "Schedule of Grant Activity" Report [Report No. 830] as the basis for preparing the Schedule of Expenditures of Federal Awards." The policy also states that the department is to clearly document any reconciling items. The department did not use the grant module series of reports. Instead, the department used other information in STARS to prepare information for presentation in the Schedule of Expenditures of Federal Awards.

The Director of Fiscal Services responsible for the proper compilation, preparation, and submission of the Schedule of Expenditures of Federal Awards did not obtain reconciliations of

the STARS 830 Report to the SEFA or reconciliations of the federal reports to the SEFA. Several factors appear to have contributed to the differences between the SEFA and the STARS 830 report. Federal matching rates for particular grant codes were changed during the year. The department did not properly change these rates in the STARS grant module. In some instances, federal funds were transferred from one federal program to another and not accounted for properly in the STARS grant module. There were also timing differences in the quarterly allocation of disbursements, and amounts that offset expenditures were not always properly recorded in the STARS grant module. All reconciling items should have been documented and resolved or corrected on a monthly basis, if possible. Any items that had not been corrected should have been shown as reconciling items at year-end and sent as required to F&A.

If the department does not perform reconciliations of the Schedule of Expenditures of Federal Awards or the related federal reports to the state's accounting records and does not use the STARS 830 Report, the department is not complying with year-end closing procedures, federal regulations, and Policy 20. The department also increases the probability that errors will occur and not be detected. Also, information presented in the SEFA and the federal reports may not be accurate.

The prior audit report contained a finding, which in part, addressed the department's lack of a reconciliation of the disbursements per the SEFA and the Federal Cash Transaction Report. Management did not concur with the prior audit finding; however, management stated that "The department always reconciles the Schedule of Expenditures of Federal Awards (SEFA) to the appropriate federal expenditures reports." However, as noted in this finding, a reconciliation was not performed.

### **Recommendation**

The Commissioner should ensure that the required steps are taken to reconcile the Schedule of Expenditures of Federal Awards to the state's grants module reports. Management should review the STARS 830 report and verify that disbursements have been entered properly, at least on a quarterly basis. This would include an ongoing review of the federal matching percentages for each grant code and the establishment of new grant codes or subgrant codes when needed. When the SEFA is prepared, a reconciliation should be prepared between the amounts on the SEFA and the amounts on the applicable federal reports and the amounts in the STARS grant module. The applicable reconciliations should be forwarded to the Department of Finance and Administration at year-end with the Schedule of Expenditures of Federal Awards. The Commissioner should ensure that the department complies with Policy 20 or that it requests a written exception to Policy 20 from the Department of Finance and Administration.

### **Management's Comment**

We concur. The department will ensure that required steps are taken to reconcile the Schedule of Expenditures of Federal Awards to the state's grants module reports. The applicable reconciliations will be prepared at intervals consistent with the department's cost allocation plan and submitted to the Department of Finance and Administration at year-end.

### **3. The Department of Human Services again failed to comply with Subrecipient Monitoring requirements contrary to instructions from the Department of Finance and Administration**

#### **Finding**

As noted in the prior audit, the department did not identify and report all of its subrecipients to the Department of Finance and Administration (F&A) as required by Policy 22. The Division of Rehabilitation Services has grant agreements with city and county school systems and with certain other quasi-governmental agencies across the state for the provision of vocational rehabilitation services to individuals with disabilities (Transition School to Work, or TSW). During the fiscal year ended June 30, 2003, the department incurred expenditures of over \$4,125,000 for this program. However, the department did not include these subrecipients in its annual monitoring plan as required by F&A Policy 22.

Management did not concur with the prior audit finding and stated that it had determined that these city and county schools and certain other quasi-governmental agencies that provide vocational rehabilitation services to individuals were not subrecipients. This determination was based on management's review of the criteria in Section 10 of the Department of Finance and Administration's Policy 22. Management's response also tried to address characteristics which distinguish a subrecipient and a vendor.

As the rebuttal to management's comments stated in the prior audit report, Policy 22 says, "In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all subrecipient characteristics will be present." As a result of our review and discussions with management, it would appear that a subrecipient relationship continues to exist in the grant agreements for the provision of vocational rehabilitation services to individuals with disabilities. The rebuttal also stated that the department should confer with the Department of Finance and Administration with regard to the applicability of Policy 22 to these grantees.

The department asserts that the Transition-School-to-Work (TSW) programs and other grants do not meet the criteria of subrecipients based on certain characteristics from OMB Circular A-133, Section 210, and Section 10 of the Department of Finance and Administration Policy 22, Subrecipient Monitoring Manual. However, it is the opinion of the auditors that the substance of the agreements more closely conforms to that of a subrecipient.

Additional testwork was done on the Division of Rehabilitation Services' expenditures to determine if there were other organizations that should have been reported. We reviewed

agreements with the 25 organizations that had the most expenditures during the audit period. We found 18 (72%) which were classified as vendors which should have been classified as subrecipients. Total expenditures charged to these organizations amounted to \$18,922,325.03.

Policy 22 establishes guidelines for uniform monitoring of subrecipients that receive state and/or federal funds from state departments, agencies, and commissions. The policy requires the department to submit an annual monitoring plan to the Division of Resource Development and Support (RDS) in the Department of Finance and Administration for review, comment, and approval by September 30 of each year. This plan should identify all subrecipients to be monitored, describe the risk criteria utilized to select subrecipients for monitoring purposes, identify full-time equivalents dedicated to monitoring activities, and include a sample monitoring guide. The department's plan did not identify the Division of Rehabilitation Services' subrecipients and document other plan requirements for the audit period.

In addition, the department is required to submit an annual report summarizing the department's monitoring activities to the RDS by October 31 of each year. This report was submitted but did not include these subrecipients of the Division of Rehabilitation Services.

Policy 22 was written to help ensure that departments comply with federal requirements regarding subrecipient monitoring. Office of Management and Budget Circular A-133, "Compliance Supplement," states that the pass-through entity is responsible for "monitoring the subrecipient's use of Federal awards through site visits or other means to provide reasonable assurance that the subrecipient administers Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved."

By failing to include all subrecipients in the department's annual monitoring plan and annual report, the department is not complying with F&A Policy 22 and federal subrecipient monitoring requirements. As a result, the department is not adequately monitoring its subrecipients.

### **Recommendation**

The Commissioner should ensure that the required monitoring of subrecipients is performed in accordance with federal regulations for all applicable programs.

### **Management's Comment**

We concur. While the definition of a vendor/sub-recipient relationship is not clear in this circumstance, we agree with the finding that benefits can be derived by monitoring these entities from a sub-recipient perspective. The department will identify these entities as sub-recipients and follow the guidelines of Policy 22 to ensure that each receives appropriate monitoring.

#### **4. The Department of Human Services did not reduce Temporary Assistance for Needy Families for participants who failed to cooperate with child support requirements**

##### **Finding**

As noted in the two prior audit reports, the department did not comply with federal regulations by reducing the assistance to recipients of Temporary Assistance for Needy Families (TANF) who failed to cooperate with child support requirements. Temporary Assistance for Needy Families is a federal program established for the purpose of providing time-limited assistance to needy families with children. The Department of Human Services (DHS) administers the TANF program in Tennessee under the name Families First. One of the important features of this program is the requirement that the head of the household must cooperate with child support enforcement efforts. Those recipients who do not cooperate are subject to having their benefits reduced.

Management concurred with the prior audit finding and stated that the Tennessee Child Support Enforcement System (TCSES) was not sending an alert to the Automated Client Certification and Eligibility Network of Tennessee (ACCENT) when it was determined that a TANF recipient was not cooperating with child support enforcement efforts. As a result of this interface failure, staff were not receiving the alerts that would have notified them of the non-cooperation. In July 2002, the department made changes to the TCSES-ACCENT interface to ensure that alerts related to instances of non-cooperation with child support were being correctly generated to staff. Also, in a memorandum dated July 31, 2002, field staff were advised of the interface correction and reminded of their responsibilities when they are notified of a participant's failure to comply with child support requirements. In spite of these changes, problems persist.

During the fiscal year ended June 30, 2003, TCSES issued 22,791 child support "non-cooperation" alerts to ACCENT. A sample of 39 cases was selected to determine if the TANF assistance was reduced by at least 25% if the recipient continued not to cooperate with the department's child support enforcement efforts. Of these 39 cases, 28 were determined to be applicable; 12 of the 28 cases (43%) did not have benefits reduced appropriately. This was a result of staff not properly following through with recipients who were determined to be non-cooperative. The amount of the overpayments for these 12 cases was \$2,569.25. The likely federal questioned cost associated with this condition could exceed \$10,000.

The *Code of Federal Regulations*, Title 45, Section 264.30(c)(1), requires that recipients of TANF benefits who do not cooperate with child support authorities shall be sanctioned by "deducting from the assistance that would otherwise be provided to the family of the individual an amount equal to not less than 25 percent of the amount of such assistance. . . ." The *Code of Federal Regulations*, Title 45, Section 264.31(a)(3), further explains that the state may be penalized up to 5% of the State Family Assistance Grant if it does not substantially comply with this child support cooperation requirement.

The department contracts with the University of Tennessee to provide Active Case Review (ACR) services. This review is intended to provide a measure of the TANF program staff's effectiveness in administering the program. The ACR Guide seeks to determine if

benefits were appropriately reduced when a child support non-cooperation alert has been sent. However, the ACR form, used by case reviewers to document the review results, does not indicate whether DHS staff had properly reduced benefits to non-cooperative TANF recipients.

Failure to properly apply the prescribed penalty for non-cooperation is a violation of program requirements and could result in a reduction of federal funding for the TANF program.

### **Recommendation**

The Assistant Commissioner for Adult and Family Services should again remind field staff of their responsibility when they are notified of a participant's failure to comply with child support requirements. Where applicable, benefits should be appropriately reduced. Also, supervisors in the field offices should periodically review cases which have received an alert to determine if benefits should have been appropriately reduced or if cooperation by the recipient has begun.

The Director of Families First should be instructed to revise the ACR review form used by the University of Tennessee case reviewers. This form should document whether the case reviewer has determined that TANF benefits have been properly reduced, where applicable.

### **Management's Comment**

We concur. The Commissioner will send a memorandum to all Family Assistance staff reinforcing the importance of working on the ACCENT alerts timely. In addition, the alerts will be directed to the supervisor as well as the caseworker to ensure appropriate action is taken.

The Active Case Review form will be modified as recommended.

### **5. The department has not completed its reconciliation of undistributed child support collections**

#### **Finding**

As noted in the three prior audit reports, the amount of undistributed child support collections reported in the Tennessee Child Support Enforcement System (TCSES) does not reconcile to the State of Tennessee Accounting and Reporting System (STARS) or to the related federal Office of Child Support Enforcement quarterly report. At June 30, 2003, the balance of undistributed collections in TCSES was \$13,690,301; the balance in STARS was \$26,068,404; and the balance on the federal quarterly report was \$14,278,567.

TCSES is maintained by the maintenance contractor Accenture. However, due to problems with TCSES and Accenture personnel, data obtained from TCSES have been found to be inaccurate. Another reason for the lack of a reconciliation is that the contingent revenue account in STARS that is used to account for undistributed collections also contained interest



earnings, administrative fees paid by non-custodial parents, and federal incentive funds. Management concurred with the prior audit finding which was released in May 2003 and stated that the reconciliation between the amount of undistributed child support collections reported in TCSES is now reconciled to the quarterly collection report. The balance in TCSES was agreed to the quarterly report that was due September 30, 2003. Management also stated that they expected to complete the reconciliation of TCSES to STARS during calendar year 2003; however, this reconciliation still has not been completed.

If the department cannot reconcile the state's accounting records to the applicable federal reports, the state could be required to repay some of the grant funds that it has received.

### **Recommendation**

The Commissioner should instruct the Director of Child Support Fiscal Services to ensure that the amount of undistributed child support collections reported in TCSES is reconciled to STARS as quickly as possible.

### **Management's Comment**

We concur. The amount of undistributed child support collections reported on the Tennessee Child Support Enforcement System (TCSES) is now reconciled to the quarterly reports of collections submitted to the Federal Office of Child Support Enforcement. However, the same amount of undistributed collections is not reconciled to the STARS reports. The department continues to work on the reconciliation process until the amount of undistributed collections is reconciled to the STARS reports. Currently, the department is making corrections and changes to TCSES in order to continue the reconciliation process. The changes to TCSES will be completed in May 2004.

## **6. Child Support Enforcement program contract terms have not always been followed, resulting in an overpayment exceeding \$421,000 to the contractor**

### **Finding**

The Department of Human Services did not always pay a Child Support Enforcement program contractor based on actual collections. The department contracted with Maximus, Incorporated, a for-profit corporation located in McLean, Va., to provide child support enforcement services in Davidson County. The contract states that Maximus, Incorporated, would be paid nine percent of child support collections, which would be reduced or increased by penalties or incentives. The contract also states that Maximus, Incorporated, would submit a monthly invoice to the department which would, at a minimum, include the amount of child support collections during the period and the total amount due the contractor for the period invoiced. However, the contractor's monthly billings were based on an estimate of the annual child support collections rather than actual collections. Management was not aware of the fact

Maximus, Inc., was being paid based on an estimate until the state auditor brought this to their attention during fieldwork.

Also, the department did not perform a reconciliation between the amount the contractor was actually paid and the amount the contractor should have been paid. Based on departmental records, Davidson County child support collections during the year ended June 30, 2003, were \$46,056,870.57. Nine percent of these collections is \$4,145,118.35; however, Maximus, Incorporated, billed and was paid \$4,566,690.00. Without regard to adjustments for penalties and incentives, as of December 15, 2003, Maximus, Inc., was apparently overpaid \$421,571.65, of which \$278,237.41 was federal funds.

This contract also states that the Department of Human Services will monitor contractor performance through monthly on-site visits; however, the department was unable to present evidence that on-site visits were performed. If the department does not monitor Maximus, Inc., it is not complying with the terms of the contract, nor has it obtained assurance that the contractor is fulfilling the requirements of the contract.

### **Recommendation**

The Commissioner should ensure all contractors are paid in accordance with contract terms. As stated in the contract with Maximus, Incorporated, payments should be based on actual child support collections, not an estimate made by the contractor. Also, monthly on-site visits should be performed in accordance with contract terms to ensure that the contractor is fulfilling the requirements of the contract.

### **Management's Comment**

We concur. The department will take steps to ensure that contractors are paid according to the contract terms. A complete review of the contract in question is underway and the apparent overpayment will be investigated. A correct cost to the department will be determined and any overpayment or potential additional liability will be identified and addressed appropriately.

- 7. As noted in the prior audit, the department did not always report alleged employee fraud to the Comptroller of the Treasury and did not always calculate the final pay of terminated employees correctly**

### **Finding**

As noted on the prior audit, the Director of Program Integrity did not always notify the Comptroller of the Treasury, as required by state law, about the department's knowledge of and subsequent investigation of employees for possible fraud. The department terminated four employees during the year ended June 30, 2003, for gross misconduct. Termination of two of the four employees (50%) was not reported immediately to the Comptroller of the Treasury. One

of the employees was terminated effective July 8, 2002; however, the department did not realize that this had not been reported until the state auditor reported the oversight to the director during fieldwork. Another employee was terminated effective August 26, 2002, but this termination was not reported until May 28, 2003. The department concurred with the prior audit finding and in March 2003 began making a more conscientious effort to report this type of termination as required by the *Human Services Administrative Manual*, revised October 1994.

The department's Director of Investigations indicated that three of the four employees had fraudulently obtained program benefits for themselves or personal friends. As a result, the department had paid \$9,487 from the Food Stamps program, \$1,179 from the Temporary Assistance for Needy Families program, and \$22 from the Medicaid program to people who were not eligible for family assistance. One of the employees has signed an administrative waiver agreeing to repay the money, one employee has been indicted and is awaiting trial, and the applicable district attorney has declined to prosecute the other employee. As of December 31, 2003, \$837 of these amounts had been repaid. Section 8-19-501, *Tennessee Code Annotated*, states,

It shall be the duty of any official of any agency of the state having knowledge of shortages of moneys of the state, or unauthorized removal of state property, occasioned either by malfeasance or misfeasance in office of any state employee, to report the same immediately to the comptroller of the treasury.

The purpose of the statutory requirement to notify the Comptroller is to ensure a thorough investigation and appropriate resolution in the best interest of the state. Failure to report fraud could cause unnecessary delays in prosecution and could result in the state not being able to recover the misappropriated funds.

Also, the department has not been correctly calculating the final pay for employees terminated for gross misconduct. Section 1120-10.07(7)(c), *Rules of the Tennessee Department of Personnel*, states,

Before an employee can be dismissed, he must be given ten (10) calendar days paid notice. During the notice period an employee will not be required to report for duty. The employee's accumulated annual leave may be used during this notice period only if dismissal was for gross misconduct.

The department interpreted this rule to mean that if an employee was being terminated for gross misconduct, the ten-calendar-day notice period would be charged against the employee's annual leave balance. If the leave balance was not sufficient to cover the notice period, the uncovered portion would be charged to leave without pay. The rule, however, requires that an employee be paid for the ten-calendar-day notice period, regardless of whether or not the employee has enough accrued annual leave to cover it. The four were underpaid in amounts ranging from \$459.00 to \$555.27. The total underpayment for the four amounted to \$2,016.18.

### **Recommendation**

The Commissioner should ensure that the Director of Program Integrity reports all instances or suspected instances of fraud immediately to the Comptroller of the Treasury. Employees who are terminated for gross misconduct should be given ten calendar days of paid notice, regardless of whether or not they have enough accrued annual leave to cover the notice period.

### **Management's Comment**

We concur. The department's Office of Program Integrity and Office of Personnel are working together to ensure instances or suspected instances of fraud are immediately reported to the Comptroller of the Treasury.

The rule regarding the pay for the ten-calendar-day notice for employees terminated due to gross misconduct has been clarified and communicated with Personnel staff. Any amounts owed to these former employees as a result of this finding will be paid.

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## STATUS OF PRIOR AUDIT FINDINGS

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### State of Tennessee *Single Audit Report* for the year ended June 30, 2002

Ten audit findings pertaining to the Department of Human Services were included in the *Single Audit Report*. The updated status of these findings as determined by our audit procedures is described below.

#### **Repeated Audit Findings**

The current audit disclosed that the Department of Human Services had partially corrected the audit findings concerning the reconciliation of federal reports to the Schedule of Expenditures of Federal Awards and compliance with child support enforcement procedures; however, a portion of these findings are repeated. The department also has not corrected the previous audit findings which dealt with compliance with the state's subrecipient monitoring requirements, reduction of benefits to recipients of Temporary Assistance for Needy Families, and the prompt reporting of gross misconduct terminations. These findings are repeated in the *Single Audit Report* for the year ended June 30, 2003.

#### **Resolved Audit Findings**

The prior audit findings which dealt with eligibility determination documentation for the Temporary Assistance for Needy Families and Food Stamps programs, *Single Audit Report* filing by subrecipients, security over computer systems, security over RACF, and the improper use of advertising services have been resolved.

#### **Audit Findings Not in *Single Audit Report***

Audit report number 02/105 for the Department of Human Services, issued in May 2003, contained three audit findings that were not included in the State of Tennessee *Single Audit Report*. These findings were not relevant to our current audit and, as a result, we did not pursue their status as a part of this audit.